Negotiating universality – an introduction

On June 14, 1993, the Secretary-General of the United Nations Boutros Boutros-Ghali delivered the opening address to the World Conference on Human Rights held in Vienna. The world had undergone massive political transformations in the preceding four years and the Vienna conference’s purpose was to lay new foundations for international human rights protection in the post–Cold War era. Since 1945, the evolution of international human rights had been closely linked to the United Nations. The Cold War and North–South debates had for almost fifty years determined the uneasy existence of human rights at the United Nations.

Boutros-Ghali’s speech was a subtle reflection on these historical realities and on the nature of human rights as he explained that:

Human rights should be viewed not only as the absolute yardstick which they are, but also as a synthesis resulting from a long historical process. As an absolute yardstick, human rights constitute the common language of humanity. Adopting this language allows all peoples to understand others and to be the authors of their own history. Human rights, by definition, are the ultimate norm of all politics.

As an historical synthesis, human rights are in their essence, in constant movement. By that I mean that human rights have a dual nature. They should express absolute, timeless injunctions, yet simultaneously reflect a moment in the development of history. Human rights are both absolute and historically defined.¹

This was a paradoxical but honest assessment of a complex phenomenon in international politics, diplomacy and law – a phenomenon that with

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the 1945 UN Charter had become a purpose and a vision to guide the work of the United Nations. Boutros-Ghali gave an open invitation to the historian to become engaged in understanding the role of human rights in twentieth-century international politics. Human rights were after all both absolute and timeless as well as historically defined and in constant movement.

In recent years, human rights have become a rapidly expanding field of historical research. Exciting new studies and interpretations have been put forward. While I gratefully acknowledge the inspiration drawn from these works, my research has guided me in a very different direction than recent historiography. Jamaica and Liberia will therefore emerge in this work as influential normative powers in twentieth-century politics, and I present the duality of race and religion as the driving forces in the breakthrough of international human rights law and politics. The 1960s will, crucially and again diverging from the increasingly accepted narrative, feature as the central period in this longer Cold War story combined with a new emphasis on the significance of decolonization. What follows is the story of these until-now, little-acknowledged players in a forgotten decade who played such a decisive role in shaping our contemporary world. This calls for elaboration.

Decolonization made a crack in the world running from South to North and East to West. From this tectonic shift, the issue of human rights emerged and over time achieved global prominence. This transformation was not just a result of structural changes in the international system of states: It was also a story of agency where the lead proponents were, in fact, a group of states from the Global South that explored and used this global transformation to reform the norms of international society and create a platform for human rights in international politics. It took time before this change became visible. The consequence of the time lag was that the source of this tectonic shift remained hidden and clouded our understanding of the emergence of human rights. The breakthrough and trajectory of international human rights has been misdated and misunderstood.

The decolonization process, described as the largest transfer of sovereign power in the history of humankind,\(^2\) deserves greater attention

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not just as an essential part of the twentieth-century historical experience but also for the emergence of human rights. It represented the transformation from a world of empires to the world of quasi-functional sovereign states we live in today. Decolonization transformed the normative backdrop upon which human rights were projected on the world stage from the 1940s and the decades that followed. In the hierarchical world of empire, human rights had only a limited opportunity to shape global politics. The notion of the universality of human rights was anathema to this world system. After decolonization, human rights were negotiated in a more horizontal system of states, at least in formal terms, and the notion of universality now operated in a world where some of its most powerful barriers had subsided. “Decolonization was a precondition that ‘Europe’ might again be associated with and worthy of an egalitarian universalism” as Jan Werner-Müller rightfully observes in his study of twentieth-century European political thought.

Sovereignty still dominated; it actually expanded with decolonization and remained a major barrier, but a structural change of the world system had taken place and the transformation process was in itself significant for human rights. The European imperial powers, among the most powerful opponents of universality in the first two decades after the Second World War, went through a political process that reformed their views on human rights as they were increasingly liberated from their own empire in the middle decades of the twentieth century. It transformed their approaches to foreign policy and international human rights diplomacy. This was not merely a journey of self-discovery. They were guided toward these new positions. At the same time, and in a not unrelated process, the United States confronted its own long-lasting and foundational tradition of racism by disbanding the Jim Crow system of formalized racial

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segregation in the South – a century after slavery had been abolished with the Civil War. The Communist regimes led by the Soviet Union believed that the end of colonialism would deliver ideological gains, which it initially did. They would, however, find themselves unable to reform their societies as the norms of international society evolved over time. None of the abovementioned states were at the vanguard of the rise of human rights in the 1960s.

“The geography of international law” had changed, one diplomatic observer noted in a significant 1962 UN debate on the future of law and international relations. The 1960s were a decade where the colonial, the anticolonial and the postcolonial met and overlapped. A large number of new subjects of international law had emerged with the creation of so many new states. Cold War ideological battles were extended to the sphere of international law. A new approach to international relations was one expression of the tectonic shift. Among the matter that emerged from this shift was universality.

The new focus on the universality of human rights was supported by two elements: an increased emphasis on universality as a principle of international law and universality as a founding principle for the type of international organization that the United Nations embodied. In these processes, universality was promoted and contested, codified and rejected – but above all it was negotiated. This is worthy of our attention. Actually, it may be said that with the normative breakthrough for human rights in the 1960s, the total of the United Nations as an international organization during this decade proved to be more than the sum of its parts. The lived experience of human rights in the member states with the widespread violations during this era – and after – would support this claim.

The hypothesis about this important connection between decolonization and human rights provides a challenge to some of the existing literature. From within postcolonial studies, human rights have been strongly criticized, frequently linking human rights with Western essentialism and neocolonialist agendas, but it may be that this critique has only been able to sustain itself through its amnesia about the postcolonial moment, that is, its own historical foundations. If a number of key countries from the Global South were the driving force behind the breakthrough of universal human rights, how Western, then, is the concept of human rights? There

5 Mr. Lannung (Denmark), UN General Assembly, 17th session, 756th meeting, November 9, 1962, p. 111.
remain important questions to be asked about how international human rights emerged.

The emphasis on the link between human rights and decolonization also calls for a word of caution. Decolonization was a multifaceted and complex process, where its aspirations soon encountered harsh political realities on a national, regional and global scale. What came to pass was that “amidst one of the great political openings of the twentieth century, the closures of a particular decolonization were becoming visible.”

The exercise of power soon manifested itself forcefully and repressively. My intention has not been to overstate the nexus between human rights and decolonization but that the nexus exists in a more refined way than previously understood, and that it is important.

This becomes evident when recognizing that several developments in late 1962 represented a crucial turning point that led to the breakthrough for human rights law and politics. At this juncture, and in the aftermath of the Cuban Missile Crisis in October, three major developments took place at the United Nations that set human rights on a new political trajectory.

The first development was that the UN human rights project that had been faltering for a decade and a half was essentially reborn in late 1962 around the issues of race and religion. This brought a whole new dynamic to the field as it reflected global political developments central to this period and challenged and transformed East–West positions on international human rights. This dynamic secured the breakthrough for human rights to become international law.

The second development was that newly independent Jamaica joined the United Nations at the 1962 UN General Assembly Session and immediately initiated a process that provided a new and longer-term framework for human rights to evolve and expand. In the process, Jamaica became the major broker of progress on human rights in the 1960s, facilitating important innovations in human rights politics – at the United Nations and beyond – leaving a long-lasting and profound legacy.

The third development was that human rights became an integrated component of broader international norm-making efforts. In 1962, the UN initiated a process to elaborate “the principles of international law concerning friendly relations and co-operation among states based on the UN Charter.” It was part of a push from Communist states to promote Nikita Khrushchev’s campaign for peaceful coexistence and have this
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notion reflected in international law. The outcome of this UN process, which lasted from 1962 to 1970, was the foundational document for the Helsinki Final Act. In subtle but important ways, it reflected human rights principles that would facilitate the inclusion of human rights in the 1975 Helsinki Final Act. If the Helsinki Final Act was instrumental during the late 1970s in elevating human rights in international relations and in inspiring activism, the backdrop for this development lies in the 1960s in a context rather different than the Conference on Security and Cooperation in Europe (CSCE) and European détente.

Yet despite this, the 1960s has remained almost a forgotten decade in human rights historiography. The primary focus has been on the 1940s and the early rise of human rights. More recently, the 1970s has emerged as the other period at the center of attention for human rights history. In two recent major international anthologies on postwar human rights, there is only one out of thirty articles that focuses on the 1960s.

There are obvious reasons for the focus on the 1940s and the 1970s. The 1940s saw the development of the milestone document that shaped the field, namely the 1948 Universal Declaration of Human Rights. The 1970s saw the global embrace of human rights by numerous international and national NGOs, forging a number of social movements. In response to the alleged human rights breakthrough in the 1970s, it is

7 One notable exception is Roland Burke (2010), Decolonization and the Evolution of International Human Rights. Philadelphia, PA.
10 For a recent take on this history, see Christopher N. J. Roberts (2015), The Contentious History of the International Bill of Human Rights. Cambridge.
important to emphasize that while it was significant that international NGOs advocated for and media disseminated news features on human rights worldwide, it was equally significant when states negotiated – in this case, several binding human rights treaties – and concluded them. On the latter point, there was a definite breakthrough in the 1960s.

Until the early 1960s, the Universal Declaration of Human Rights carried limited weight in international politics. There was, however, one area in which the Universal Declaration played a concrete role. It had become an important source of inspiration in the drafting of constitutions in newly emerging states. By the early 1960s, the Declaration, for example, had been applied in the drafting of constitutions in more than twenty African countries.\(^\text{11}\) By 1962, as the UN human rights project still floundered, there was a lesson to be learned from this development: Human rights were coming in from the South.

The breakthrough occurred rapidly. In July 1963, a legal advisor in the U.S. State Department wrote about the Commission on Human Rights and its “prolonged effort expended on human rights covenants which may never be completed and which, if completed, may never be widely ratified as treaties.”\(^\text{12}\) Three years later, at the end of 1966, three major human rights treaties had been completed, with ratifications already having occurred for the International Convention on Elimination of All Forms of Racial Discrimination adopted in December 1965. It was this Convention and the race issue itself that enabled the completion in 1966 of the two Covenants on civil and political rights and on economic, social and cultural rights that by then had been underway for eighteen years.

“Treaties reflect politics,” writes Beth Simmons in her influential book *Mobilizing for Human Rights*.\(^\text{13}\) It is therefore relevant to try and understand the nature of these political developments. The story seen from the perspective of 1962’s influence begets quite a different historical context, with a different set of actors and a different trajectory and causalities regarding the human rights breakthrough than those stories focusing on

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\(^1\) Egon Schwelb (1963), *Human Rights and the International Community*. Chicago, IL, p. 51; See also Charles O. H. Parkinson (2008), *Bills of Rights and Decolonization. The Emergence of Domestic Human Rights Instruments in Britain’s Overseas Territories*. Oxford.


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the 1940s and the 1970s. It also connects these three periods in a way that is unseen in existing human rights research. The book thereby addresses significant gaps in the research literature and in our knowledge of how human rights evolved in the post-1945 era.

The existing human rights literature is extremely comprehensive and covers a wide range of disciplines. It is impossible here to do justice to the research field. Since 2010, the discipline of history has been one of the most vibrant contributors to human rights scholarship, with an outburst of new research. This comes on the back of previous work by scholars such as Paul Gordon Lauren, Johannes Morsink and others published during the 1980s and 1990s.\(^{14}\) During the 2000s, but before the recent boom, important contributions were made by scholars including A. W. Brian Simpson, Mary Ann Glendon, Lynn Hunt and Jay Winter.\(^{15}\) Susan Waltz placed particular emphasis on the role of small states, especially in the drafting of the 1948 Universal Declaration of Human Rights.\(^{16}\) Their contributions stand out as important independent works and offer different perspectives to the strong focus on the 1970s in the recent historiography since 2010.\(^{17}\) One of the limitations of this literature is a


limited awareness of the 1960s’ human rights foundations on which the 1970s’ developments rest.

Roland Burke’s excellent 2010 book *Decolonization and the Evolution of International Human Rights* is one of very few books that address the 1960s in some detail. It provides a comprehensive and insightful overview of Third World diplomacy from the 1955 Bandung Conference to the 1968 World Conference for Human Rights held in Tehran. The book is particularly strong in addressing the nuances of the debates at the United Nations as well as the later “rise of cultural relativism” as a challenge to human rights. It does not, however, capture important catalytic factors such as the strategic impact of the race–religion equation and the nuances of the five-year Jamaica-led preparation process for the 1968 human rights year and what this also says about the role of the Global South. Daniel Whelan’s book *Indivisible Human Rights*, also from 2010, captures similar themes, providing a rich account of the drafting of the Human Rights Covenants at the United Nations and offering a long-term perspective from 1945 to 2009 on the development of a key conceptual and political dimension of international human rights thinking. However, its thematic focus also carries a limitation: The 1960s receive limited treatment despite the fact that 1968 is presented as a turning point in how the understanding of the indivisibility of human rights evolved.

The UN Intellectual History Project produced ten volumes from 2004 to 2009 on a whole range of topics that have been key in the UN’s work since 1945, including a book on the history of *Human Rights at the UN*. It is a rich, comprehensive and informative work that unfortunately manages to largely ignore the 1960s – apart from twelve pages on the Convention on Elimination of All Forms of Racial Discrimination20 – thereby


providing a rather limited view of a critical and transformative period for the UN and for the subject matter of the book. More recently, Jan Eckel’s *Die Ambivalenz des Guten*, from 2014, which focuses on human rights in international politics since the 1940s, has provided a wide-ranging and detailed study. In a 900-page book on this topic, the 1960s can hardly be avoided. The book does cover issues such as decolonization, the case against the Greek military Junta in the European regional human rights system from 1967, the evolution of Amnesty International and importantly the debates about the creation of an inter-American human rights system during the 1960s; but despite giving attention to several relevant developments during the decade, Eckel still argues that the UN human rights agenda focused almost exclusively on condemning colonialism and on racial discrimination. I hope to show in this book why this perception deserves to be nuanced.

In his 2013 book *Individual Rights and the Making of the International System*, Christian Reus-Smit argued that there was a discrepancy between studies of decolonization and human rights. Decolonization studies seldom mentions the politics of human rights and “histories of the international human rights regime ignore, to all intents and purposes, the politics of decolonization.” Reus-Smit’s provides an accurate analysis of the reasons for this, namely a deeply ingrained but problematic assumption “that if decolonization was about rights, it was about collective rights not individual rights; and that the international codification of human rights was a Western project.” The limited historiography that has grappled with the nexus between human rights and decolonization has tended to focus on the right to self-determination, rejecting the idea that human rights were central to the anticolonial movements.

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23 Ibid., p. 152. It is a little paradoxical that Reus-Smit builds his analysis mainly through the traditional focus on the right to self-determination – which in his view universalized sovereignty – since the scope of Global South human rights engagement went well beyond this issue and that the broader focus more significantly substantiates the point about the nexus between decolonization and human rights that Reus-Smit argues.